
From: Kirk Jones [mailto:KPJones@sbsu.com]
Sent: Monday, September 18, 2006 8:31 PM
To: Comments
Subject: Identity Theft Red Flags and Address Discrepancies Under FACTA- 12 CFR Parts 334 and 364

September, 18, 2006

Dear FDIC:

Thank you for the opportunity to comment on the proposed Red Flag regulations relating to implementation of the FACT Act. I am the SVP of Operations at State Bank of Southern Utah, a \$530 million asset bank based in southwestern Utah.

I'll keep my comments short. The agencies should issue guidelines and nothing more. Hard regulation should be avoided for the following reasons:

1. The Act was hastily passed without thoughtful dialogue or debate. It is likely to be amended. For example, one paragraph in the Act requires banks to look closely at transactions in accounts "*inactive for two years.*" This effectively alters the definition of "dormant" account to one arbitrarily mandated by Washington. It would take at least a year, if not more, to appropriately re-program for the change. Moreover, the definition of a dormant account (usually three years for savings, one year for checking or a credit card) has a long history of experience and acceptance that gets tossed overboard for a new definition that is not necessarily better.
2. No latitude for dealing with legitimate address changes that coincide with the reissue of expired cards. Requirements in the Act, if executed by hard regulation, would create an impossible situation for consumers whose cards are mailed to an old address due to the lag of implementing a legitimate change of address. A consumer may be forced to wait several days to finally receive a replacement card at his or her new address until *after* a bank has completed the mandated reconciliation. Obviously, a credit report would be of little use to verify identity because it would contain the *old* address.
3. There is no need for hard regulation. Softer guidelines would accomplish the same thing and allow a bank to tailor its policies the local environment. For example, a smaller bank could roll identity theft *guidelines* into its Customer

Information Program (CIP) by adding a simple provision to pull credit reports on all new account applicants.

4. "Identity theft" is defined in an overly broad manner. There are many levels of identity theft encompassed in the red flags, from consumers giving away their debit/credit card information to *phishermen*, all the way to criminals impersonating someone else. Some cases are much easier to remedy than others and really should not be classified as *identity theft*. However, hard regulation would force banks to micro-manage and track every case according to a Washington formula that may not be appropriate.

Thank You,

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